

**REMARKS/ARGUMENTS**

Claims 1 and 3-18 are pending in the application. By this Amendment, claims 1, 3-5, 9, 13 and 14 are amended and claims 2 and 19-22 are canceled without prejudice or disclaimer. Reconsideration and withdrawal of the rejections in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants thank Examiner Phan for the courtesies extended to Applicants' representative during the December 17, 2008 personal interview. A summary of the substance of the personal interview is incorporated into the following remarks.

Claims 19-22 had previously been withdrawn from consideration as subject to a Restriction Requirement. Accordingly, by this Amendment, claims 19-22 are canceled.

The Office Action rejects claims 1-4 and 10-16 under 35 U.S.C. §103(a) over Fangman (U.S. Patent No. 7,068,646), in view of White (U.S. Patent No. 6,711,241). The Office Action also rejects claims 6-9, 17 and 18 under 35 U.S.C. §103(a) over Fangman, in view of White, and further in view of Sasagawa (U.S. Patent No. 6,914,898). As noted above, claim 2 has been canceled. With respect to the remaining claims, the rejection is respectfully traversed.

As explained during the December 17, 2008 personal interview, the claimed system and methods operate in a significantly different fashion than the systems disclosed in Fangman, White and Sasagawa. To best explain how the claimed systems and methods work, Applicant will provide an explanation of a call set up attempt embodying the invention with reference to Figure 12 of the present application. As shown in Figure 12, a telephone

call set up request can be received from the PSTN 115 or a long distance carrier 117. The call set up request would be forwarded to a source gateway 460. The source gateway would be capable of sending data packets to destination gateway 464, via the Internet, to attempt to set up the call to the destination telephone 145.

The present application explains that data packets bearing either a call setup attempt, or an actual telephone call, could be sent through the Internet through a variety of different paths to the destination gateway. Figure 12 illustrates an example in which the source gateway 460 is capable of sending and receiving data packets via two different paths C and D to the Internet. The two paths C and D could represent different Internet service providers which the source gateway 460 can use to communicate via the Internet.

The application further explains that if the source gateway 460 (which originally received the call set up request from a carrier) is unable to effectively communicate through the Internet via its two paths C and D, the source gateway could hand the call setup request off to other alternate originating gateways 462, 463. The alternate originating gateways 462, 463 also each have multiple paths onto the Internet. Originating gateway 462 is capable of communicating via paths A and B, and originating gateway 463 could use paths E and F to communicate via the internet.

The application discloses methods of setting up a telephone call to a destination telephone which minimizes looping and call signaling which occurs as the call is being set up through the destination gateway. If a large amount of unnecessary call signaling occurs, and too much time passes after the caller finishes dialing the call, the caller will assume

that an error has occurred and he will hang up and try again. Thus, it is desirable to minimize looping and unnecessary call signaling during the call setup process.

The claims of the application use the term “originating gateway” and “source gateway.” As illustrated in Figure 12, each of the gateways 460, 462 and 463 would be considered “originating gateways.” However, only one of the originating gateways would be considered the “source gateway.” Specifically, the “source gateway” is the gateway that originally receives a call setup request from a carrier 117 or the PSTN 115. In the example shown in Figure 12, the gateway identified with reference numeral 460 is the “source” gateway because that is the originating gateway which received the original call set up request from the PSTN or long distance carrier.

Claim 1 is directed to a method which includes selecting an optimal route from a plurality of routes, wherein each route includes an originating gateway, and wherein the originating gateway on the optimal route comprises a source gateway. In the example shown in Figure 12, originating gateway 460 would be considered the source gateway on the optimal route. The source gateway 460 is considered to be on the optimal route because this is the gateway which originally received the call set up request from the PSTN or long distance carrier.

Claim 1 recites making a first call setup attempt by sending data packets containing a first call setup request from the source gateway to a destination gateway. Claim 1 also recites receiving a message from the destination gateway indicating that the first call setup attempt has failed. Claim 1 then further recites inserting header data into digital data

packets containing a second call setup request, and then making a second call setup attempt by sending the data packets containing the second call setup request to the destination gateway from an alternate originating gateway other than the source gateway.

Again, with reference to Figure 12, the second call set up attempt would be made through one of the two alternate originating gateways 462 or 463.

Claim 1 recites that header data inserted into the digital data packets containing the second call setup request ensure that a message indicating that the second call setup attempt has failed is sent from the destination gateway to the source gateway, even though the digital data packets containing the second call setup request were sent to the destination from an alternate originating gateway. It is at this point that the claimed systems and methods significantly differ from the systems and methods disclosed in the Fangman, White and Sasagawa references.

In the known systems and methods disclosed in Fangman, White and Sasagawa, whenever a call setup attempt fails, the message indicating that the call setup attempt has failed is sent from the destination gateway to whatever originating gateway originally sent the call setup request. With reference to Figure 12, in the known systems and methods, if alternate originating gateway 462 had sent a call setup request to the destination gateway 464, and the call setup attempt failed, a message indicating that the call setup attempt had failed would be sent back to the alternate originating gateway 462. However, claim 1 recites that header data inserted into the call setup request ensures that a message indicating that a second call setup attempt has failed is sent not to the alternate originating

gateway 462, but rather to the source gateway 460. Fangman, White and Sasagawa fail to disclose or suggest any systems or methods which are capable of acting in this fashion. And, as explained during the December 17, 2008 personal interview, operating as claimed can significantly reduced the amount of signaling which must occur as multiple call setup attempts are made in order to complete the telephone call to the destination telephone.

Because Fangman, White and Sasagawa fail to disclose or suggest a method as recited in claim 1, where a call setup failure message will be sent back to a source gateway, even though the call setup request was originally sent from an alternate originating gateway other than the source gateway, it is respectfully submitted that claim 1 is allowable. Claims 3-13 depend from claim 1 and are allowable for at least the same reasons, and for the additional features which they recite.

Claim 14 is directed to a system configured to route telephone calls over the Internet. Claim 14 recites a routing controller and a source gateway. The source gateway is configured to receive routing information from the routing controller and to insert header data into data packets containing a call setup request. Claim 14 recites that the header data inserted into the data packets is configured to ensure that if a call setup attempt sent from an alternate originating gateway fails, a message sent back from the destination gateway indicating that the call setup attempt has failed will be sent to the source gateway, even though the call set up request was sent to the destination gateway from the alternate originating gateway. Thus, it is respectfully submitted that claim 14 is allowable for reasons similar to those discussed above in connection with claim 1. Claims 15-18 depend from

claim 14 and are allowable for the same reasons, and for the additional features which they recite.

In view of the foregoing, withdrawal of the rejections is respectfully requested.

It is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

/John C. Eisenhart/  
John C. Eisenhart  
Attorney Reg. No. 38,128

901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

JCE:knh